

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0059.01 Esther van Mourik x4215

HOUSE BILL 12-1037

HOUSE SPONSORSHIP

Becker,

SENATE SPONSORSHIP

(None),

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CLASSIFICATION OF THE SALES OF CERTAIN ITEMS
102 USED IN AGRICULTURAL PRODUCTION AS WHOLESALE SALES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill classifies the sales of certain agricultural items as wholesale sales rather than retail sales. The effect of such a classification is that the following sales will not be subject to sales tax:

- ! Sales of agricultural compounds to be consumed by, administered to, or otherwise used in caring for livestock;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! Sales of semen for agricultural or ranching purposes; and
- ! Sales of pesticides that are registered by the commissioner of agriculture for use in the production of agricultural and livestock products.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 29-2-105, **amend** (1)
3 (d) (I) (H) as follows:

4 **29-2-105. Contents of sales tax ordinances and proposals -**
5 **repeal.** (1) The sales tax ordinance or proposal of any incorporated town,
6 city, or county adopted pursuant to this article shall be imposed on the
7 sale of tangible personal property at retail or the furnishing of services,
8 as provided in paragraph (d) of this subsection (1). Any countywide or
9 incorporated town or city sales tax ordinance or proposal shall include the
10 following provisions:

11 (d) (I) A provision that the sale of tangible personal property and
12 services taxable pursuant to this article shall be the same as the sale of
13 tangible personal property and services taxable pursuant to section
14 39-26-104, C.R.S., except as otherwise provided in this paragraph (d).
15 The sale of tangible personal property and services taxable pursuant to
16 this article shall be subject to the same sales tax exemptions as those
17 specified in part 7 of article 26 of title 39, C.R.S.; except that the sale of
18 the following may be exempted from a town, city, or county sales tax only
19 by the express inclusion of the exemption either at the time of adoption
20 of the initial sales tax ordinance or resolution or by amendment thereto:

21 (H) BEFORE JULY 1, 2012, the exemption for sales of pesticides
22 specified in section 39-26-716 (2) (e), C.R.S. THIS SUB-SUBPARAGRAPH
23 (H) IS REPEALED, EFFECTIVE JUNE 30, 2013.

1 **SECTION 2.** In Colorado Revised Statutes, 39-26-102, **amend**
2 (19) as follows:

3 **39-26-102. Definitions - repeal.** As used in this article, unless the
4 context otherwise requires:

5 (19) (a) "Wholesale sale" means a sale by wholesalers to retail
6 merchants, jobbers, dealers, or other wholesalers for resale and does not
7 include a sale by wholesalers to users or consumers not for resale, and the
8 latter sales shall be deemed retail sales and subject to the provisions of
9 this article.

10 (b) ~~This term~~ "WHOLESALE SALE" includes sales of all pre-press
11 preparation printing materials, as defined ~~by~~ IN subsection (6.7) of this
12 section, ~~which~~ THAT are used by a printer for a specific printing contract
13 where the printed product is sold at retail to a customer accepting delivery
14 within this state.

15 (c) (I) "WHOLESALE SALE" INCLUDES SALES OF AGRICULTURAL
16 COMPOUNDS TO BE CONSUMED BY, ADMINISTERED TO, OR OTHERWISE
17 USED IN CARING FOR LIVESTOCK AND ALL SALES OF SEMEN FOR
18 AGRICULTURAL OR RANCHING PURPOSES.

19 (II) FOR PURPOSES OF THIS PARAGRAPH (c), "AGRICULTURAL
20 COMPOUNDS" MEANS:

21 (A) INSECTICIDES, FUNGICIDES, GROWTH-REGULATING CHEMICALS,
22 ENHANCING COMPOUNDS, VACCINES, AND HORMONES;

23 (B) DRUGS, WHETHER DISPENSED IN ACCORDANCE WITH A
24 PRESCRIPTION OR NOT, THAT ARE USED FOR THE PREVENTION OR
25 TREATMENT OF DISEASE OR INJURY IN LIVESTOCK;

26 (C) PRODUCTS, WITH OR WITHOUT TOXIC PROPERTIES, SOLD IN A
27 SEPARATE PACKAGE, THAT ARE USED TO ENHANCE THE ACTIVITY OF A

1 PESTICIDE AND INTENDED TO BE USED WITH A PESTICIDE AS AN AID TO THE
2 APPLICATION OR EFFECT OF THE PESTICIDE. THESE PRODUCTS INCLUDE
3 ANY WETTING AGENT, SPREADING AGENT, DEPOSIT BUILDER, ADHESIVE
4 EMULSIFYING AGENT, DEFLOCCULATING AGENT, WATER MODIFIER, OR
5 SIMILAR AGENT.

6 (D) ANIMAL PHARMACEUTICALS THAT HAVE BEEN APPROVED BY
7 THE FOOD AND DRUG ADMINISTRATION.

8 (d) "WHOLESALE SALE" INCLUDES SALES OF PESTICIDES THAT ARE
9 REGISTERED BY THE COMMISSIONER OF AGRICULTURE FOR USE IN THE
10 PRODUCTION OF AGRICULTURAL AND LIVESTOCK PRODUCTS PURSUANT TO
11 THE "PESTICIDE ACT", ARTICLE 9 OF TITLE 35, C.R.S., AND OFFERED FOR
12 SALE BY DEALERS LICENSED TO SELL SUCH PESTICIDES PURSUANT TO
13 SECTION 35-9-115, C.R.S.

14 **SECTION 3.** In Colorado Revised Statutes, 39-26-716, **amend**
15 (2) (d), (2) (e), (3) (d), and (3) (e) as follows:

16 **39-26-716. Agriculture and livestock - special fuels -**
17 **definitions - repeal.** (2) The following shall be exempt from taxation
18 under the provisions of part 1 of this article:

19 (d) (I) BEFORE JULY 1, 2012, all sales and purchases of
20 agricultural compounds to be consumed by, administered to, or otherwise
21 used in caring for livestock and all sales and purchases of semen for
22 agricultural or ranching purposes. ~~and~~

23 (II) THIS PARAGRAPH (d) IS REPEALED, EFFECTIVE JUNE 30, 2013.

24 (e) (I) BEFORE JULY 1, 2012, all sales and purchases of pesticides
25 that are registered by the commissioner of agriculture for use in the
26 production of agricultural and livestock products pursuant to the
27 provisions of the "Pesticide Act", article 9 of title 35, C.R.S., and offered

1 for sale by dealers licensed to sell such pesticides pursuant to section
2 35-9-115, C.R.S.

3 (II) THIS PARAGRAPH (e) IS REPEALED, EFFECTIVE JUNE 30, 2013.

4 (3) The following shall be exempt from taxation under the
5 provisions of part 2 of this article:

6 (d) (I) BEFORE JULY 1, 2012, the storage, use, or consumption of
7 agricultural compounds to be consumed by, administered to, or otherwise
8 used in caring for livestock and semen used for agricultural or ranching
9 purposes. ~~and~~

10 (II) THIS PARAGRAPH (d) IS REPEALED, EFFECTIVE JUNE 30, 2013.

11 (e) (I) BEFORE JULY 1, 2012, the storage, use, or consumption of
12 pesticides that are registered by the commissioner of agriculture for use
13 in the production of agricultural and livestock products pursuant to the
14 provisions of the "Pesticide Act", article 9 of title 35, C.R.S., and offered
15 for sale by dealers licensed to sell such pesticides pursuant to section
16 35-9-115, C.R.S.

17 (II) THIS PARAGRAPH (e) IS REPEALED, EFFECTIVE JUNE 30, 2013.

18 **SECTION 4. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.